

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

YVETTE BARBARA BALDWIN,
Plaintiff

vs

Case No. 1:10-cv-952

Barrett, J.
Litkovitz, M.J.

MARSHAL & ILSLEY FINANCIAL
CORPORATION, et al.,
Defendants.

**REPORT AND
RECOMMENDATION**

Plaintiff brings this breach of contract action claiming defendant Marshall & Ilsley Financial Corporation ("MI"), and other affiliated institutions and individuals, denied plaintiff access to her bank accounts. On April 11, 2011, the Court ordered plaintiff to provide a legible handwritten copy of only *the first seven pages* of her complaint for each defendant for purposes of effecting service of process by the United States Marshals Service. (Doc. 9). Plaintiff failed to comply with that Order, and on May 13, 2011, the Court ordered plaintiff to show cause in writing within fifteen days stating why this Court should not dismiss this case for lack of prosecution. (Doc. 15). The May 13, 2011 Order, which was sent by certified mail to plaintiff, was returned by the United States Postal Service as "unclaimed." (Doc. 16).

To date, more than fifteen days later, plaintiff has failed to respond to the Court's Show Cause Order or Order of April 11, 2011. Plaintiff's failure to respond to the Court's Orders warrants dismissal of this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. *See Jourdan v. Jabe*, 951 F.2d 108, 109-10 (6th Cir. 1991). District courts have this power to dismiss civil actions for want of prosecution to "manage their own affairs so as to achieve the

orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan*, 951 F.2d at 109.

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's complaint be dismissed with prejudice.
2. The Court certify pursuant to 28 U.S.C. § 1915(a) that for the foregoing reasons an appeal of any Order adopting this Report and Recommendation would not be taken in good faith and therefore deny plaintiff leave to appeal *in forma pauperis*. Plaintiff remains free to apply to proceed *in forma pauperis* in the Court of Appeals. *See Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

Date: 6/6/11


Karen L. Litkovitz, Magistrate Judge
United States District Court

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Krette Barbara Baldwin
8112 Constitution Drive
Cincinnati, OH 45215

A. Signature

X Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number

(Transfer from service label)

7001 2510 0008 6348 6960

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